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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,244	12/20/2001	Paul D. Beuther	KCX-448B (16482, 16483)	9067
7590	04/07/2004		EXAMINER	
Neal P. Pierotti Dority & Manning, Attorneys at Law, P.A. P.O. Box 1449 Greenville, SC 29602			MARTIR, LILYBETT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/027,244

Applicant(s)

BEUTHER ET AL.

Examiner

Lilybett Martir

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-7 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luukala et al. (Pat. 4,833,928).

- With respect to claim 1, Luukala et al. teaches an pulse transducer as in element 3 (Col. 5, lines 23-25) for applying a pulse to a web 1 to create a wave in the web as in element 2, at least two laser displacement transducers for measuring the displacement of the web as the wave moves through the web as are elements 8' in combination with element 5, and a computer (Col. 4, lines 60-62) utilized to calculate parameters of the web (Col. 2, lines 30-53). Luukala fails to specifically disclose his utilization of an air pulse producing means in his arrangement to produce the wave in the web. Luukala does teach that it is well known in the art to utilize compressed air blowing means to measure the tension of a web (Col. 1, lines 34-37). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the tension-measuring device of Luukkala et al. by using the knowledge commonly available in the art by utilizing alternate commonly known compressed air blowing means to measure the tension of a web to therefore produce a burst in a well known way that does not depart from the scope of Luukala's teachings rendering said device functional under

circumstances where a loudspeaker or equivalent would not perform appropriately.

3. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luukkala et al. (Pat. 4,833,928) in view of Nakaoka et al. (Pat. 5,251,491).

- With respect to claim 2, Luukkala et al. fails to teach the utilization of his computer to control his air pulse. Nakaoka et al. teaches the utilization of a processing arrangement, which controls the air pressure of an air pulse being delivered to a measured object (Col. 2, lines 40-49). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the tension-measuring device of Luukkala et al. by using the teachings of the tension measuring device of Nakaoka et al. by controlling by means of a processing arrangement the air pulse to therefore make said measuring device more reliable and accurate by therefore facilitating the production of similar and repetitive testing arrangements decreasing the possible amount of error.
- With respect to claim 3, Luukkala et al. teaches the calculation of the velocity or speed of the web (Col. 2, lines 31-42). It is well known in the art that speed is the first derivative of distance with respect to time and hence the magnitude of a velocity.

***Allowable Subject Matter***

4. Claims 4-7 are allowed in response to the amendments submitted on October 2, 2003.

### ***Response to Arguments***

5. Applicant's arguments filed January 20, 2004 have been fully considered but they are not persuasive. Luukala et al. discloses that the utilization of compressed air blowing is well known in the art as recited in Col. 1, lines 62-65, and therefore it's utilization in the moving web art is not novel. One of ordinary skill in the art can conclude that rendering said device functional under circumstances where a loudspeaker or equivalent would not perform appropriately is nothing more than expected by any artisan in the web tension-measuring field.

6. In response to applicant's argument that there is no suggestion to modify the reference of Luukala et al., the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves ***or in the knowledge generally available to one of ordinary skill in the art.*** See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, rendering said device functional under circumstances where a loudspeaker or equivalent would not perform appropriately to therefore make a device versatile is nothing more than derived from the knowledge generally available to one of ordinary skill in the art.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilybett Martir whose telephone number is (571)272-2182. The examiner can normally be reached on 9:00 AM to 5:30 PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571)272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lilybett Martir  
Examiner  
Art Unit 2855



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